

**House File 2422 - Introduced**

HOUSE FILE 2422  
BY COMMITTEE ON HUMAN  
RESOURCES

(SUCCESSOR TO HSB 551)

**A BILL FOR**

1 An Act relating to sex offender notification, providing  
2 penalties, and including effective date provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135C.3, subsection 1, Code 2011, is  
2 amended to read as follows:

3 1. a. A licensed nursing facility shall provide an  
4 organized twenty-four-hour program of services commensurate  
5 with the needs of its residents and under the immediate  
6 direction of a licensed nurse. Medical and nursing services  
7 must be provided under the direction of either a house  
8 physician or an individually selected physician. Surgery or  
9 obstetrical care shall not be provided within the facility.  
10 An admission to the nursing facility must be based on a  
11 physician's written order certifying that the individual being  
12 admitted requires no greater degree of nursing care than the  
13 facility to which the admission is made is licensed to provide  
14 and is capable of providing.

15 b. A nursing facility is not required to admit an individual  
16 through court order, referral, or other means without the  
17 express prior approval of the administrator or owner of the  
18 nursing facility.

19 Sec. 2. Section 135C.4, Code 2011, is amended to read as  
20 follows:

21 **135C.4 Residential care facilities.**

22 1. Each facility licensed as a residential care facility  
23 shall provide an organized continuous twenty-four-hour program  
24 of care commensurate with the needs of the residents of the  
25 home and under the immediate direction of a person approved  
26 and certified by the department whose combined training  
27 and supervised experience is such as to ensure adequate and  
28 competent care.

29 2. All admissions to residential care facilities shall be  
30 based on an order written by a physician certifying that the  
31 individual being admitted does not require nursing services or  
32 that the individual's need for nursing services can be avoided  
33 if home and community-based services, other than nursing care,  
34 as defined by this chapter and departmental rule, are provided.

35 3. For the purposes of this section, the home and

1 community-based services to be provided shall be limited to the  
2 type included under the medical assistance program provided  
3 pursuant to chapter 249A, shall be subject to cost limitations  
4 established by the department of human services under the  
5 medical assistance program, and except as otherwise provided by  
6 the department of inspections and appeals with the concurrence  
7 of the department of human services, shall be limited in  
8 capacity to the number of licensed residential care facilities  
9 and the number of licensed residential care facility beds in  
10 the state as of December 1, 2003.

11 4. A residential care facility is not required to admit  
12 an individual through court order, referral, or other means  
13 without the express prior approval of the administrator of the  
14 residential care facility.

15 **Sec. 3. NEW SECTION. 135C.23A Sex offender notification.**

16 1. Upon commitment of a person required to register as  
17 a sex offender as provided in section 692A.103 to a nursing  
18 facility, residential care facility, or assisted living program  
19 as defined in section 231C.2, the clerk of the committing court  
20 shall notify the department of inspections and appeals and the  
21 admitting facility or program.

22 2. Prior to or immediately upon admission of a resident or  
23 tenant to a nursing facility, residential care facility, or  
24 assisted living program, the facility or program shall access  
25 and search the sex offender registry established in chapter  
26 692A to determine whether the resident or tenant is a person  
27 required to register as a sex offender, as provided in section  
28 692A.103.

29 3. Upon the admission of a person required to register as a  
30 sex offender, a nursing facility, residential care facility, or  
31 assisted living program shall provide notice of the admission,  
32 in accordance with rules adopted by the department, to all of  
33 the following persons:

34 a. Residents or tenants of the facility or program.

35 b. The emergency contact person or next of kin for residents

1 or tenants of the facility or program.

2 *c.* Operators, owners, managers, or employees of the facility  
3 or program.

4 *d.* Visitors to the facility or program.

5 *e.* The sheriff for the county in which the facility or  
6 program is located. The sheriff shall notify local law  
7 enforcement agencies.

8 4. Upon the admission of a person required to register as a  
9 sex offender, a nursing facility, residential care facility, or  
10 assisted living program shall develop and implement a written  
11 safety plan for each such person in accordance with rules  
12 adopted by the department.

13 5. The department shall establish by rule, all of the  
14 following:

15 *a.* The requirements of the notice required under this  
16 section. The rules shall include but are not limited to  
17 provisions for the method of notice and time of notice to each  
18 of the persons enumerated in subsection 3.

19 *b.* The requirements of a safety plan for persons required  
20 to register as a sex offender who are admitted by a nursing  
21 facility, residential care facility, or assisted living  
22 program. The rules shall include but are not limited to all of  
23 the following:

24 (1) A plan for the safety of residents or tenants.

25 (2) A plan for the safety of others when community functions  
26 are held at a facility or program and when a person required to  
27 register as a sex offender is not on the premises of a facility  
28 or program but the person remains within the care, custody, and  
29 control of the facility or program.

30 (3) A provision to establish the responsibilities of a  
31 nursing facility, residential care facility, and assisted  
32 living program and the operators, owners, managers, and  
33 employees of facilities and programs in implementing a safety  
34 plan.

35 (4) A provision for the timely development and

1 implementation of a safety plan.

2 6. A violation of this section is subject to the imposition  
3 of a civil penalty in accordance with rules adopted by the  
4 department pursuant to this section.

5 Sec. 4. Section 231C.3, subsection 9, Code 2011, is amended  
6 to read as follows:

7 9. An assisted living program shall comply with ~~section~~  
8 sections 135C.23A and 135C.33.

9 Sec. 5. Section 231C.5A, Code 2011, is amended to read as  
10 follows:

11 **231C.5A Assessment of tenants — program eligibility.**

12 1. An assisted living program receiving reimbursement  
13 through the medical assistance program under chapter 249A shall  
14 assist the department of veterans affairs in identifying, upon  
15 admission of a tenant, the tenant's eligibility for benefits  
16 through the United States department of veterans affairs. The  
17 assisted living program shall also assist the commission of  
18 veterans affairs in determining such eligibility for tenants  
19 residing in the program on July 1, 2009. The department of  
20 inspections and appeals, in cooperation with the department of  
21 human services, shall adopt rules to administer this section,  
22 including a provision that ensures that if a tenant is eligible  
23 for benefits through the United States department of veterans  
24 affairs or other third-party payor, the payor of last resort  
25 for reimbursement to the assisted living program is the medical  
26 assistance program. The rules shall also require the assisted  
27 living program to request information from a tenant or tenant's  
28 personal representative regarding the tenant's veteran status  
29 and to report to the department of veterans affairs only the  
30 names of tenants identified as potential veterans along with  
31 the names of their spouses and any dependents. Information  
32 reported by the assisted living program shall be verified by  
33 the department of veterans affairs.

34 2. An assisted living program is not required to admit  
35 an individual through court order, referral, or other means

1 without the express prior approval of the administrator of the  
2 assisted living program.

3 Sec. 6. Section 231C.14, subsection 1, Code 2011, is amended  
4 by adding the following new paragraph:

5 NEW PARAGRAPH. d. Noncompliance with section 135C.23A.

6 Sec. 7. Section 602.8102, Code 2011, is amended by adding  
7 the following new subsection:

8 NEW SUBSECTION. 152. Notify the department of inspections  
9 and appeals and the admitting entity upon commitment of a  
10 person required to register as a sex offender as provided in  
11 section 692A.103 to a nursing facility or residential care  
12 facility as defined in section 135C.1, or assisted living  
13 program as defined in section 231C.2.

14 Sec. 8. WORKFORCE DEVELOPMENT WORKGROUP.

15 1. If a workgroup to address issues connected with workforce  
16 development related to mental health and disability services  
17 is established by or as a result of legislation enacted by the  
18 2012 regular session of the Eighty-fourth General Assembly, the  
19 workgroup shall also address issues connected with ensuring  
20 that an adequate workforce is available in the state to provide  
21 services to persons who have a history of committing sexual  
22 offenses and have been determined to be likely to reoffend.

23 2. a. If a workgroup to address issues connected with  
24 workforce development for mental health and disability services  
25 is not established by or as a result of legislation enacted by  
26 the 2012 regular session of the Eighty-fourth General Assembly,  
27 the department of human services shall convene and provide  
28 support to a health and mental health services for sexual  
29 offender workforce development workgroup to address issues  
30 connected with ensuring that an adequate workforce is available  
31 in the state to provide health and mental health services to  
32 persons who have a history of committing sexual offenses and  
33 have been determined to be likely to reoffend. The workgroup  
34 shall report at least annually to the governor and general  
35 assembly providing findings, recommendations, and financing

1 information concerning the findings and recommendations.

2 b. The membership of the workgroup shall include all of the  
3 following:

4 (1) The director of the department of aging or the  
5 director's designee.

6 (2) The director of the department of corrections or the  
7 director's designee.

8 (3) The director of the department of education or the  
9 director's designee.

10 (4) The director of human services or the director's  
11 designee.

12 (5) The director of the department of public health or the  
13 director's designee.

14 (6) The director of the department of workforce development  
15 or the director's designee.

16 (7) At least three individuals who have a history of  
17 committing sexual offenses and have been determined likely to  
18 reoffend who are receiving mental health or health services or  
19 involved relatives of such individuals.

20 (8) At least three providers of mental health or health  
21 services for individuals who have a history of committing  
22 sexual offenses and have been determined likely to reoffend.

23 (9) Other persons identified by the workgroup.

24 c. In addition to the members identified in paragraph  
25 "b", the membership of the workgroup shall include four  
26 members of the general assembly serving in a ex officio,  
27 nonvoting capacity. One member shall be designated by each  
28 of the following: the majority leader of the senate, the  
29 minority leader of the senate, the speaker of the house of  
30 representatives, and the minority leader of the house of  
31 representatives. A legislative member serves for a term as  
32 provided in section 69.16B.

33 d. Except as provided in paragraph "c" for legislative  
34 appointments, the workgroup shall determine its own rules of  
35 procedure, membership terms, and operating provisions.

1     Sec. 9. FACILITY FOR SEXUAL OFFENDERS COMMITTEE AND REPORT.

2     1. The department of inspections and appeals shall  
3 establish and facilitate the activities of a committee of  
4 stakeholders to examine options for designating a facility  
5 to provide care for persons in this state who have a history  
6 of committing sexual offenses and have been determined to be  
7 likely to reoffend.

8     2. The membership of the committee shall include but is not  
9 limited to the following:

10    a. Representatives of the departments of inspections and  
11 appeals, human services, public health, corrections, and aging,  
12 the office of the state public defender, the office of the  
13 citizens' aide, and the judicial branch.

14    b. Consumers of services provided by health care facilities  
15 and family members of consumers.

16    c. Health care facility administrators or owners.

17    d. Direct care workers employed by health care facilities.

18    e. Representatives from the Iowa legal aid.

19    f. Representatives from AARP Iowa.

20    g. Representatives from the Iowa civil liberties union.

21    h. Four ex officio, nonvoting members from the general  
22 assembly with not more than one member from each chamber being  
23 from the same political party. The two senators shall be  
24 appointed, one each, by the majority leader of the senate and  
25 the minority leader of the senate. The two representatives  
26 shall be appointed, one each, by the speaker of the house  
27 of representatives and the minority leader of the house of  
28 representatives.

29     3. The committee shall discuss and make recommendations on  
30 all of the following:

31    a. Options to create a new facility or assist an existing  
32 facility to expand services to provide care for elderly persons  
33 who are no longer under judicial control, but have a history  
34 of committing sexual offenses and have been determined to  
35 be likely to reoffend. The committee shall identify the

1 characteristics of a client for such a facility, the need for  
2 such a facility, options for creating a new facility to house  
3 such persons, options for the expansion of an existing facility  
4 to house such persons, options for using any alternative  
5 facilities for such purposes, options for a public-private  
6 partnership for such a facility, options for using part of  
7 a mental health institute to house such persons, options to  
8 qualify a facility for Medicaid reimbursement, cost projections  
9 for any recommendations, and other information deemed relevant  
10 by the department of inspections and appeals.

11 b. The responsibility of the court, the clerk of the  
12 district court, the department of corrections, or any other  
13 entity, department, or person to inform a nursing facility,  
14 residential care facility, or an assisted living program of the  
15 admission of a person who has a history of committing sexual  
16 offenses.

17 c. The responsibility of the court, clerk of the district  
18 court, department of corrections, a facility, or any other  
19 entity, department, or person to notify persons of the  
20 discharge of a person who has a history of committing sexual  
21 offenses from a nursing facility, residential care facility, or  
22 assisted living program.

23 d. The requirements of a treatment safety plan for a person  
24 admitted to a nursing facility, residential care facility, or  
25 assisted living program who has a history of committing sexual  
26 offenses.

27 e. The establishment of a formal process for the department  
28 of inspections and appeals to follow when completing facility  
29 or assisted living program inspections or surveys.

30 f. The establishment of a system for the judicial branch to  
31 identify facilities with the capacity to provide an appropriate  
32 placement for an individual who has been arrested, charged, or  
33 convicted of an offense that requires registration as a sex  
34 offender under chapter 692A.

35 4. The committee shall provide a report detailing its

1 findings and recommendations to the governor and the general  
2 assembly by December 14, 2012.

3 Sec. 10. RULES. The department of inspections and appeals  
4 shall adopt rules to administer the provisions of this Act.

5 Sec. 11. CURRENT RESIDENTS AND TENANTS — ACCESS AND SEARCH  
6 OF SEX OFFENDER REGISTRY AND NOTIFICATION. A nursing facility,  
7 residential care facility, or assisted living program, within  
8 three months of the adoption of the rules by the department of  
9 inspections and appeals regarding notification of the admission  
10 of persons required to register as a sex offender to a facility  
11 or program and development and implementation of safety plans  
12 relating to such admitted persons, shall access and search the  
13 sex offender registry established in chapter 692A for persons  
14 who were residents or tenants of a facility or program prior to  
15 the adoption of the rules and who remain residents or tenants  
16 of the facility or program after the adoption of the rules.  
17 Upon determining that a resident or tenant is a person required  
18 to register as a sex offender, the facility or program shall,  
19 within three months of the adoption of the rules, work with  
20 the department of inspections and appeals and the department  
21 of human services to transfer a sex offender living in the  
22 facility or program to a state facility, based on the sex  
23 offender status as an endangerment to the safety of individuals  
24 in the facility or program, or notify persons as required by  
25 section 135C.23A and the rules adopted pursuant to that section  
26 and develop and implement a safety plan as required by section  
27 135C.23A and the rules adopted pursuant to that section. The  
28 rules shall provide that, for purposes of this section, a  
29 nursing facility, residential care facility, or assisted living  
30 program has the right to discharge a current resident or tenant  
31 based solely on the person's status as a sex offender as an  
32 endangerment to the safety of individuals in the facility or  
33 program.

34 Sec. 12. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
35 of immediate importance, takes effect upon enactment.

EXPLANATION

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This bill relates to notifying residents and tenants of certain facilities and programs and others about the status of other residents or tenants included on the state's sex offender registry.

The bill provides that nursing facilities, residential care facilities, and assisted living programs are not required to admit an individual through court order, referral, or other means without the express prior approval of the administrator or owner of the facility or program.

The bill requires the clerk of a court that is committing a person required to register as a sex offender to a nursing facility, residential care facility, or assisted living program to notify the department of inspections and appeals (DIA) and the facility or program to which the person is being committed.

The bill requires a nursing facility, residential care facility, and assisted living program prior to or immediately upon the admission of a resident or tenant to access and search the sex offender registry to determine whether the resident or tenant is included on the registry.

Upon the admission of a person required to register as a sex offender, a nursing facility, residential care facility, or assisted living program must provide notice as provided in the DIA's rules to residents or tenants, the emergency contact or next of kin for residents or tenants, operators, owners, managers, or employees of the facility or program, visitors to the facility or program, and the county sheriff. The sheriff must notify local law enforcement agencies.

The bill also requires nursing facilities, residential care facilities, and assisted living programs to develop and implement a written safety plan complying with the DIA's rules relating to each person required to register as a sex offender admitted to the facility or program.

The bill requires the DIA to establish rules for the requirements of the notice including the method of notice and

1 time of notice, the requirements of the safety plans including  
2 the safety plan for other residents and the community,  
3 a provision for the responsibilities of the facility or  
4 program, and the operators, owners, managers, or employees in  
5 implementing the safety plans, and a provision for the timely  
6 development and implementation of safety plans. A person who  
7 violates the requirements of the bill is subject to a civil  
8 penalty.

9 The bill requires any workgroup established by or as a  
10 result of legislation enacted by the 2012 regular session of  
11 the general assembly to address issues related to workforce  
12 development for mental health and disability services to also  
13 address issues connected with ensuring an adequate workforce to  
14 provide services to persons who have a history of committing  
15 sexual offenses and who have been determined to be likely to  
16 reoffend.

17 If a workgroup is not established by legislation in the 2012  
18 regular session of the general assembly to address workforce  
19 development for mental health and disability services, the  
20 department of human services shall convene a workgroup to  
21 address issues connected with ensuring an adequate workforce to  
22 provide health and mental health services to persons who have a  
23 history of committing sexual offenses who have been determined  
24 to be likely to reoffend. The workgroup shall consist of  
25 the director or the director's designee from the department  
26 on aging, the department of corrections, the department of  
27 education, the department of human services, the department of  
28 public health, and the department of workforce development.  
29 The workgroup shall also consist of at least three individuals  
30 with a history of committing sexual offenses who have been  
31 determined to be likely to reoffend and who are receiving  
32 health or mental health services or involved relatives of  
33 such individuals, three providers of mental health or health  
34 services for individuals who have a history of committing  
35 sexual offenses and have been determined likely to reoffend,

1 other persons identified by the workgroup, and members of the  
2 general assembly serving in an ex officio, nonvoting capacity.

3 The bill establishes a committee of stakeholders to address  
4 issues related to the housing of elderly sexual offenders  
5 who have been determined to be likely to reoffend. The  
6 bill requires the department of inspections and appeals to  
7 facilitate the activities of the committee. The membership of  
8 the committee includes but is not limited to the following:  
9 representatives of the departments of inspections and appeals,  
10 human services, public health, corrections, and aging,  
11 the office of the state public defender, the office of the  
12 citizens' aide, and the judicial branch; consumers of services  
13 provided by health care facilities and family members of  
14 consumers; health care facility administrators and owners;  
15 direct care workers employed by health care facilities;  
16 representatives from Iowa legal aid, AARP Iowa, and the Iowa  
17 civil liberties union; and four ex officio, nonvoting members  
18 from the general assembly.

19 The bill requires the committee to meet and make  
20 recommendations regarding options to create a new facility or  
21 assist an existing facility to expand services to provide care  
22 for elderly persons who are no longer under judicial control,  
23 but have a history of committing sexual offenses and have been  
24 determined to be likely to reoffend; the responsibility of  
25 the court, the clerk of the district court, the department of  
26 corrections, or any other entity, department, or person to  
27 inform a nursing facility, residential care facility, or an  
28 assisted living program of the admission of a person who has  
29 a history of committing sexual offenses; the responsibility  
30 of the court, clerk of the district court, department of  
31 corrections, a facility, or any other entity, department, or  
32 person to notify persons of the discharge of a person who has a  
33 history of committing sexual offenses from a nursing facility,  
34 residential care facility, or an assisted living program;  
35 the requirements of a treatment safety plan for persons

1 admitted to a nursing facility, residential care facility,  
2 or assisted living program who have a history of committing  
3 sexual offenses; the establishment of a formal process for  
4 the department of inspections and appeals to follow when  
5 completing inspections or surveys of facilities or assisted  
6 living programs; the establishment of a system for the judicial  
7 branch to identify facilities with the capacity to provide an  
8 appropriate placement for an individual who has been arrested,  
9 charged, or convicted of an offense that requires registration  
10 as a sex offender under Code chapter 692A.

11 The bill requires the committee to report its findings  
12 and recommendations to the governor and general assembly by  
13 December 14, 2012.

14 The bill requires the DIA to adopt rules.

15 The bill provides that a nursing facility, residential care  
16 facility, or assisted living program, within three months  
17 of the adoption of the DIA's rules regarding sex offender  
18 notification, is required to access and search the sex offender  
19 registry to determine whether current residents or tenants are  
20 on the registry. If a current resident or tenant is on the  
21 sex offender registry, the nursing facility, residential care  
22 facility, or assisted living program, within three months of  
23 the adoption of the DIA's rules, shall work with the department  
24 of inspections and appeals and the department of human services  
25 to transfer a sex offender living in the facility or program  
26 to a state facility, based on the sex offender status as an  
27 endangerment to the safety of individuals in the facility or  
28 program, or notify persons and develop and implement a safety  
29 plan as required under the bill. The rules shall provide that,  
30 for purposes of the section related to current residents or  
31 tenants, a nursing facility, residential care facility, or  
32 assisted living program has the right to discharge a current  
33 resident or tenant based solely on the person's status as a sex  
34 offender as an endangerment to the safety of individuals in the  
35 facility or program.

1 The bill takes effect upon enactment.